

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 22, “Employer Records and Reports,” Chapter 23, “Employer’s Contribution and Charges,” and Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

These proposed amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were adopted. The agency needs to have administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before September 5, 2017, by sending them to David J. Steen, Attorney, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to david.steen@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend rule 871—22.4(96) as follows:

871—22.4(96) Reporting of earnings data by secure file transfer.

22.4(1) The employer may submit an electronic file ~~in lieu of Form 65-5300, Employer’s Contribution & Payroll Report~~. Authorization for this reporting method will be given if the employer meets the specification requirements to be compatible with the department’s computer capabilities. Such specifications will be furnished upon request.

22.4(2) The electronic file submitted ~~will~~ must contain, for each reporting unit, all of the required employer information, wage information, and labor market information ~~required when filing using the Form 65-5300, Employer’s Contribution & Payroll Report~~. If this method of filing is selected, all wages ~~must be filed using this method. The report will not be considered filed until all worksite reporting units have filed~~. All corrections to previous reports submitted to the department must be listed and submitted ~~on Form 68-0061, Employer’s Wage Adjustment Report~~ electronically.

22.4(3) The director shall annually designate the number of wage lines per report that will require the report be filed electronically.

This rule is intended to implement Iowa Code section 96.11(6)“a.”

ITEM 2. Amend rule 871—22.5(96) as follows:

871—22.5(96) Filing of quarterly ~~report forms~~ contribution and payroll by newly subject or covered employers. Any employing unit which becomes an employer subject to this chapter within any calendar quarter other than by a voluntary election of the employing unit shall file reports contribution and payroll for each calendar quarter ~~on Form 65-5300, Employer’s Contribution and Payroll Report~~. Reports Payroll shall include all wages paid during the current quarter as well as separate quarterly reports for wages paid in prior quarters of the same calendar year. The first quarterly reports of that

employer shall be due on the last day of the calendar month following the close of the calendar quarter in which the employing unit becomes subject to the Iowa Code and shall be considered delinquent if not submitted and paid by that date. Any employer filing a voluntary election for coverage must begin filing reports in the quarter the employer's election is effective.

This rule is intended to implement Iowa Code sections 96.7(1), 96.14(1), 96.14(2) and 96.8(3).

ITEM 3. Amend subrule 22.9(2) as follows:

22.9(2) Each employing unit which shall hereafter begin business in the state of Iowa in any manner whatsoever whether by succession to a business already being operated, by starting a new business, or otherwise, shall, within 30 days after beginning such business, inform the department of that fact, ~~request the forms referred to in 22.9(1) and make and file the report required of all employing units by said rule~~ complete a registration and file contribution and payroll for all reporting units.

ITEM 4. Amend subrule 22.10(1) as follows:

22.10(1) *Change in partnership.* In any case in which a partnership consisting of two or more partners adds to or deletes a partner or partners and is not required by the Internal Revenue Service to obtain a new federal identification number after such addition or deletion of partner or partners, the partnership shall notify the department of such change ~~by filing a Form 68-0234, Report of a Partnership on Change in Partners,~~ within ten days from the date the change occurred. The department will subsequently correct the partnership account to reflect this change.

ITEM 5. Amend subrule 22.13(1), introductory paragraph, as follows:

22.13(1) Any employing unit reporting under an assigned account and having one or more reporting units in the state of Iowa may request ~~in writing or electronically~~ the assignment of a reporting unit number which will be assigned for the specific purpose of mailing Form 65-5317, Notice of Claim Filing, to the reporting unit so that responsible personnel at that location can make a timely protest on Form 65-5317 if the employment separation was for a disqualifiable reason. Those accounts so wishing may request ~~in writing~~ that all unemployment insurance material other than Form 65-5317, Notice of Claim Filing, be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and shall indicate:

ITEM 6. Amend paragraph **22.17(4)“e”** as follows:

e. To verify the reporting of all workers reportable to the department under Iowa Code chapter 96, questionable entries will be investigated and documented. Under rule 871—22.7(96)₂ if the employer disagrees with the audit decision on coverage of a worker, the auditor may require the employer to complete Form 68-0192, ~~Job Service~~ Questionnaire ~~For~~ for Determining Status of Workers. In any disputed case, the auditor is to be granted access to records as necessary to determine the remuneration paid for any given calendar quarter.

ITEM 7. Amend paragraph **22.17(5)“b”** as follows:

b. When an unemployment insurance claim is filed, an auditor may request to examine the records of an employer to establish the claimant's rights to benefits under Iowa Code chapter 96. Form 68-0192, ~~Job Insurance~~ Questionnaire ~~For~~ for Determining Status of Workers, and supporting documents may be required in contested cases. If the department determines that the claimant is an employee, the records will be examined to determine the correct amount of wages paid to the claimant and the period to which the wages apply.

ITEM 8. Amend paragraph **22.17(5)“c”** as follows:

c. When an employer fails or refuses to file ~~a report~~ contribution and payroll, the auditor may examine the records to determine the correct amount of wages that should be reported, ~~prepare the report,~~ and may compute and collect contributions, penalty, and interest due. Should records not be made available, the auditor may estimate the wages paid and amounts due pursuant to 871—subrule 23.59(2).

ITEM 9. Amend subrule 23.1(30) as follows:

23.1(30) *Quarterly Wage wage report.* A report ~~by an employer of the wages of individual workers~~ that generates after the employer has electronically submitted its quarterly contribution and payroll.

ITEM 10. Amend subrule 23.1(31) as follows:

23.1(31) *Quarterly Wage listing wage detail.* A report listing workers and their wages by social security number.

ITEM 11. Amend paragraph **23.70(11)“a”** as follows:

a. A nonprofit organization changing its tax status from reimbursable to contributory or contributory to reimbursable will ~~retain the same~~ be given a new employer account number. A nonprofit organization terminating its election to reimburse the fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate, except as provided in paragraph “b.”

ITEM 12. Amend subparagraph **24.2(1)“e”(2)** as follows:

(2) In order for an individual to receive payment by direct deposit, the individual must provide the financial institution selected by the department with the appropriate bank routing code number and a checking or savings account number.

ITEM 13. Adopt the following **new** subrule 24.26(17):

24.26(17) Separation due to incarceration.

a. The claimant shall be eligible for benefits if the department finds that all of the following conditions have been met:

- (1) The employer was notified by the claimant prior to the absence;
- (2) Criminal charges relating to the incarceration were not filed against the individual, all criminal charges against the individual relating to the incarceration were dismissed, or the claimant was found not guilty of all criminal charges relating to the incarceration;
- (3) The claimant reported back to the employer within two work days of the release from incarceration and offered services to the employer; and
- (4) The employer rejected the offer of services.

b. If the claimant fails to satisfy the requirements of subparagraph 24.26(17)“a”(1), the claimant shall be considered to have voluntarily quit the employment if the claimant was absent for three work days or more under subrule 24.25(4). If the absence was two days or less, the separation shall be considered a discharge under rule 871—24.32(96). If all of the conditions of subparagraphs 24.26(17)“a”(2), (3) and (4) are not satisfied, the separation should be considered a discharge under rule 871—24.32(96).

This subrule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Irving v. Employment Appeal Board*, 883 N.W.2d 179.

ITEM 14. Rescind subrule 24.32(3) and adopt the following **new** subrule in lieu thereof:

24.32(3) *Gross misconduct.*

a. For the purposes of these rules, gross misconduct shall be defined as misconduct involving an indictable offense in connection with the claimant’s employment, provided that such claimant is duly convicted thereof, has signed a statement admitting that such claimant has committed such act, or has admitted to the department that claimant has committed such act.

b. An indictable offense means a common law or statutory offense presented on indictment or on county attorney’s information, and includes all felonies and all indictable misdemeanors punishable by a fine of more than \$500 or by imprisonment in the county jail for more than 30 days.

c. If gross misconduct is established, the department shall cancel the individual’s wage credits earned, prior to the date of discharge, from all employers regardless of when the act occurred during the benefit year.